

UNITED STATES

v.

HEARING

ALI HAMZA AHMAD SULAYMAN AL BAHLUL
a/k/a Ali Hamza Ahmed Suleiman al Bahlul
a/k/a Abu Anas al Makki
a/k/a Abu Anas al Yemeni
a/k/a Mohammad Anas Abdullah Khalidi

COMMISSIONS

held at

Guantanamo Bay, Cuba

on

26 August 2004

PERSONS PRESENT:

PRESIDING OFFICER: Colonel Peter E. Brownback III, USA

PROSECUTION COUNSEL: Commander XXXX, USN

ASST PROSECUTOR: Lieutenant Colonel XXXX, USMC
Captain XXXX, USA

DEFENSE COUNSEL: Lieutenant Commander Philip Sundel, USN

ASST DEFENSE COUNSEL: Major Mark Bridges, USA

MEMBERS: Colonel XXXX, USMC

Colonel XXXX, USMC

Colonel XXXX, USAF

Lieutenant Colonel XXXX, USAF

ALTERNATE MBR: Lieutenant Colonel XXXX, USA

COURT REPORTERS: Sergeant XXXX, USMC

=====

INDEX

=====

=====

RECORD

=====

Sessions:

On 26 August 2004 1

Introduction of Counsel: 1

* * * * *

**REVIEW
EXHIBIT**

DESCRIPTION

Page

1	Appointing Order	1
2	Presidential Determination	1
3	Interpreters	1
4	Protective Order	2
5	Prosecution Detailing	3
6	Defense Detailing	14

The Commission Hearing was called to order at 0931,
26 August 2004.

PO: The military commission is called to order.

P (CDR XXXX): This military commission is convened by Appointing Order number 04-003, dated June 28th 2004; copies of which have been furnished to the members of the commission, counsel, and the accused, and which will be marked as Review Exhibit 1 and attached to the record. There are no corrections noted to the appointing order. The Presidential determination that the accused may be subject to trial by military commission has been marked as Review Exhibit 2 and has been provided to all members.

The charge has been properly approved by the appointing authority and referred to this commission for trial. The prosecution caused a copy of the charge in English and Arabic, the accused's native language, to be served on the accused on August 12, 2004.

The prosecution is ready to proceed in the commission trial of the United States versus Ali Hamza Sulayman al Bahlul.

The accused, commission members, and alternate commission member named in the appointing order and detailed to this commission are present.

All detailed counsel are present.

Gunnery Sergeant XXXX has been detailed reporter for this commission and has previously been sworn.

PO: I'll note that she's gotten a promotion that she isn't aware of.

P (CDR XXXX): Yes, sir. Sergeant XXXX.

Security personnel have been detailed for this

commission and have been previously sworn.

The interpreters have been detailed for this commission and have also been previously sworn. The full names of the interpreters who are providing interpretation for today's hearing are contained in Review Exhibit 3, a copy of which has been previously provided to the defense and the reporters for inclusion in the record.

The bailiff has also previously been sworn.

PO: Previously marked, shown to counsel, and signed is RE 4, a protective order concerning the identity of the interpreters. Either side object to that order?

P (CDR XXXX): No, sir.

DC (LCDR Sundel): No, sir.

PO: I have been designated as the presiding officer of this commission by the appointing authority, and I have been previously sworn. All other members of the commission and the alternate member will now be sworn.

All persons in the courtroom, please rise.

The members were sworn.

PO: The commission is assembled.

I would ask before we continue all people who are going to speak to remember that we have to speak so the interpreters, the translators can translate.

Before continuing with preliminary matters, it is necessary for me to inquire into the accused's need for an interpreter.

Mr. al Bahlul, do you understand and speak English?

ACC: I prefer to have an interpreter.

PO: Would you repeat the translation, please?

ACC: I prefer to have an interpreter present.

PO: What language do you speak?

ACC: Arabic language.

PO: As I said earlier, translators have been appointed to this case. Do you understand the translation that is being made?

ACC: Clear.

PO: Commander XXXX, please state the detailing and qualifications of the prosecution.

P (CDR XXXX): Sir, all members of the prosecution have been detailed to this military commission by the chief prosecutor. All members of the prosecution are qualified under Military Commission Order Number 1, Paragraph 4(b), and we have previously been sworn. No member of the prosecution has acted in any manner which might tend to disqualify us in this proceeding. The detailing document has been marked as Review Exhibit 5 and previously provided to the court reporter.

PO: Commander Sundel, have either you or Major Bridges -- well, have you and Major Bridges been properly detailed to this case?

DC (LCDR Sundel): We have, sir.

PO: Has either of you acted in any manner inconsistent with your duties?

DC (LCDR Sundel): Not that I'm aware of.

PO: I'll take that for a no.

Mr. al Bahlul, pursuant to Military Commission Order Number 1, you are now at this moment,

represented by your detailed counsel, Commander Sundel and Major Bridges. They are provided to you at no expense. You may also request a different military lawyer to represent you. If the person you ask for is reasonably available, he or she would be appointed to represent you. If that happens, your detailed counsel, Commander Sundel and Major Bridges, would normally be excused; however, you could request that they remain on the case.

In addition, you may request to be represented by a civilian lawyer. A civilian lawyer would represent you at no expense to the government. Such a lawyer must be a United States citizen and certified to practice law in the United States. She or he must be eligible for a secret clearance and agree in writing to comply with the rules of the commissions. If you had a civilian lawyer, the detailed counsel, Commander Sundel and Major Bridges would remain on the case. Do you understand what I just said?

ACC: Clear.

PO: Do you have any questions about your rights to be being represented before this commission?

ACC: Am I allowed to represent myself?

PO: I'm referring to Military Commission Order Number 1, Paragraph 4(c), sub (4). It states, the accused must be represented at all relevant times by detailed defense counsel. So the answer is, no, you're not allowed to represent yourself.

ACC: Excuse me. If I can ask the judge --

PO: Please speak up.

ACC: -- if I can to know the reason that disqualifies me from representing myself. I would like to know why, and if not --

PO: Okay. Are you asking to represent yourself before this commission?

ACC: Yes, I would like to represent myself.

PO: Sir, could you please try speaking -- or move the mic closer to yourself.

ACC: Yes, I would like to represent myself.
[Interpreter: Is that better?]

PO: Let's talk about that. I want to go over several matters with you so that you understand what such a request means. Let me talk about your detailed counsel.

To be detailed counsel, they have to be qualified attorneys; that means that they have to be admitted to practice before the highest court of a state, and be commissioned as a judge advocate in one of the military services of the United States.

Commander Sundel, you're obviously Navy. What state?

DC (LCDR Sundel): I am barred in Maryland, sir.

PO: Major Bridges you're Army. What state?

ADC (Maj Bridges): Kentucky, sir.

PO: Okay. So Commander Sundel is admitted to practice in Maryland, and he's been certified by the Judge Advocate General of the Navy as a judge advocate. Major Bridges is admitted in Kentucky, and he's been certified by the Judge Advocate General of the Army.

Okay. Second, before they got here, they were nominated; they were chosen by the Navy and the Army as representatives of those services to serve as defense counsel. And then they were selected as defense counsel by Colonel Gunn who is the Chief Defense Counsel of the commissions. He's an Air

Force officer. They have to have a security clearance, and they both do have security clearances; correct?

DC (LCDR Sundel): Yes, sir.

ADC (Maj Bridges): Yes, sir.

PO: So they can see all the information for that tribunal or commission. In addition to graduating from college and law school, they've each received extensive training in military law which is, at times, a confusing subset of law. From the time they became judge advocates, they've learned not only military legal principles and terminology, but they've learned military terminology about troops and airplanes and ships and things like that. And they've become familiar with the general military practice and how things are handled in the Departments of the Navy, Army, and the Department of Defense.

And -- I resist making a comment about Kentucky -- they are both fluent in English, which is a necessity here.

Perhaps even more importantly, they are not on trial here, which means that they are not personally involved, which means that they can remain objective in situations when a person about whom things are being said might become emotional or heated. Do you understand what I've said so far?

ACC: Yes, I understood.

PO: Now, like I said before, Commander Sundel and Major Bridges are both judge advocates. They have both been detailed to represent you since the 3rd of February of 2004. During this period, while I'm not aware of their exact activities since they don't reveal things to me, I feel certain that they have been studying the law which is applicable to these proceedings, preparing various matters to

present to the commission and to other authorities, and determining how best to represent you in front of the commission.

Given their background and training, they have the skill and knowledge to force the commission to apply the rules and the law on your behalf; and if they feel that the commission has not done so, they have instant access to computers to make and file motions. They can make objections. They can argue by analogy to federal, military, and international law; and they have research resources, both computer and personal, which will help them insure that your rights are represented or protected in these proceedings. Do you understand what I just said now?

ACC: Yes, I understand. I have a question based on what you said. Are you done?

PO: Not yet.

ACC: When you're done.

PO: No, I'm sorry. Yes, you may ask your question now.

ACC: I have some idea about practicing law in Yemen.
[To interpreter]

PO: Excuse me. Could you please lean forward and speak just a little louder.

ACC: I have some idea about practicing law in Yemen.

DC (LCDR Sundel): Excuse me, sir. I'm not sure that was exactly what Mr. al Bahlul said. My understanding is he said that he knows some people who practice law.

INT: I do apologize, sir. Correction, I have --

ACC: Nobody represents me until this point. I wish nobody would interrupt you while I'm talking. I have some people that do practice or are familiar

with law in the country of Yemen from different areas.

If the American law, as far as I know, would allow me to be represented by a Yemeni attorney through American system, is it possible that I can be granted this, a Yemeni attorney. And as far as I know, if I'm right, that I cannot be represented by anybody other than an American. Is it possible that the Yemeni attorney, through the American attorney, can be involved in my case?

PO: So we are talking correctly, so I can make sure I understood what you requested, referring again to MCO Number 1, Paragraph 4(c)(3), it states, in talking about civilian counsel -- which just means anyone who's not wearing a uniform -- that the attorney, the civilian must be a United States citizen. And you understood that you -- it appeared to me that you understand that.

Now, is what you are telling me that you want to have a Yemeni attorney provided at no expense to the government, meaning the United States Government, present to assist your detailed counsel, Commander Sundel and Major Bridges for this proceeding? I don't know, that's why I'm asking.

ACC: Yes.

DC (LCDR Sundel): Sir, if I just may?

PO: Yeah, you may.

DC (LCDR Sundel): I think perhaps what we may want to do is to clarify if his first preference is to represent himself; if that is not allowable, his second preference is to be represented exclusively by a Yemeni attorney; and if that is not allowable, his last preference is to be represented by military counsel, with a Yemeni attorney assistant.

PO: Thank you for your assistance, I mean it.

You heard Commander Sundel, so now I'm going to ask you. I explained to you generally your rights to counsel. Detailed counsel, a requested military counsel, a civilian counsel, U.S. citizen, those are your rights to counsel. As you're sitting there, please just tell me, right now, what do you want? Do you want a second talk to someone? Honest, I mean -- do you want to take a --

ACC: I have mentioned previously, and you answered it. I asked if I can represent myself, you said no. But what I meant -- I do not want an attorney representing me. I'll attend the sessions if it's mandatory to attend; I'll be here. If I do have that choice attending the sessions, I'd rather not be here. This is an order.

PO: What was the last word, sir?

ACC: If I do not have -- if it's have to attend the hearing, then I'd rather not attend.

PO: I do not recall directing or stating that you are not allowed to represent yourself. What I said and I read was the provision of the military commission order. I am trying, honestly, to find out your desires and to find out something more about you and those desires. I have not ignored what you said, but I want to find out some more before I say anything in that regard; okay?

ACC: Good.

PO: Commander XXXX, did I say, on the record -- if I did -- did I say he couldn't represent himself, or did I read from the -- I'm not trying to trick anyone. I don't remember saying he could not represent himself.

P (CDR XXXX): One moment, sir. Sir, I believe that when you read the instruction, that's the reasonable interpretation of the instruction.

PO: Order, but that's fine.

P (CDR XXXX): The order that you read.

PO: Okay. I get to interpret my words, he gets to translate them.

Before I say anything on that subject, Mr. al Bahlul, I'd like to know something more about you. And if you wish, you can take a moment and talk with anyone and you can tell me whether or not you want to answer these questions.

How old are you?

ACC: You can ask me anything. I don't need to go back to anybody.

PO: How old are you?

ACC: Thirty-six years.

PO: How many years of formal education do you have?

ACC: Sixteen years.

PO: Have you spent much time in the American culture other than your time here at Guantanamo?

ACC: This is personal, to me?

PO: Yes, personally.

ACC: Are you interested or is it important to you that I answer this question?

PO: I'm asking the question because the proceedings that you're in front of are derived from our culture, and different cultures have different ways of handling things. And I guess what I'm asking is this: Is your knowledge of our culture sufficient to make things that would appear strange if you had no knowledge, not appear so strange? That's all I'm asking.

ACC: I have large amount of knowledge.

PO: Okay. Talking about language, we are using a translator now, but there are things that are said, no matter how good the translator might be, that lose something in translation. And therefore, I ask: Is your fluency level in English such that you can understand most of what's said without translation?

ACC: Not a large scale.

PO: Have you had any formal training in the law? And here I'm not talking just about the American legal system, but any legal training.

ACC: I've read legal matters and books.

PO: Other than the legal motions that you've seen, have you ever studied international law or the law of war? It's not something that most people may much attention to.

ACC: Yes, I did. I've read.

PO: You have been given a copy of the charges against you at this proceeding -- and before you answer this question, please take time to consider my use of the word "understand". When I say "understand", what I mean is, do you comprehend, as they are written, what they are charging? Having put that caveat -- having put that explainers in, do you understand the charges against you?

ACC: Very good.

PO: Do you realize that because -- well, that in accordance with the President's military order and Military Commission Order Number 1, there may be evidence against you which you would not be allowed to see because of its protected nature?

ACC: Do you have another question? The protected

information, this is something that is intentional. The people that started this were the British, relating to Muslims. I don't think it's fair that the evidence would not be presented and the accused cannot defend himself without seeing such evidence for himself, or even through an attorney.

PO: You have made in your response, what you just said, a challenge to the structure, the way the commission is set up. And the commission will take a motion -- piece of paper on this.

That wasn't my question. My question was: Whether you believe it's fair or not fair, do you understand right now that you will not be able to see certain evidence because it is either classified or protected. Right now, you can't see it. Do you understand that?

ACC: For the protected evidence, let's put it aside. It's all well known in all those -- the civilian or the local, the decision is the evidence, especially if that decision is under no pressure, and based on the person without any -- without being placed under any pressure, and based on personal decision or preference.

I know that the presiding officer is not interested that I decide that I am from al Qaida or not. Let the proceedings take its course regarding if I am guilty or not.

One point that I would like the judge to understand and the members or the panel, and the people -- the people that are the jurors, or the people that were sworn in, and the prosecutor, and the defense team that until this point does not represent me, and the visitors and detainees, and if it's being, you know, viewed via media channels, people that are watching as well, people of the entire globe should know, I testify that the American government is under no pressure. Nobody has put the United States Government under pressure. I am from al Qaida, and the relationship between me and

September 11th --

PO: Members -- thank you. Please stop for a second.

Members, you all understand that I am questioning Mr. al Bahlul in order to determine his representation. You all understand that; right? You all understand that Mr. al Bahlul has not been placed under oath?

Apparently so.

You further understand that none of this is evidence in any way. Do you all understand that?

Apparently so.

I apologize for interrupting you.

P (CDR XXXX): Sir, before we go on, we'd note our objection to that statement and ask for a recess.

PO: What do you wish to discuss in the recess?

P (CDR XXXX): I think our objection is noted. We don't think that's an accurate statement of commission law.

PO: Thank you. You may provide a brief on that matter.

P (CDR XXXX): Yes, sir.

PO: Go on.

ACC: I know that this is like an arraignment, and the questions are limited legally, and there is other sessions that will take place. And it's normal from the presiding officer and the others sitting here take their time to see that probably they might render an improper judgment; so that we don't really go into, you know, side things, you know, over here.

In short, I would like to represent myself, and I'm

telling this to the presiding officer, or the judge. For the questions that the judge have asked, for the things that you need to know about me relating to being familiar with the law and the new laws. Specifically, there was new laws that were drafted in the United States specifically after the September 11th incident. I would like to file a motion to represent myself and defend myself at the same time.

I can write or everybody in this room can be a witness in the next sessions. Nobody should be worried relating to me causing problems, or being loud, or basically saying things that might be inflammatory. I can give you my word, you know, my verbal promise, that basically I would not, you know, go against that, what I'm saying today.

From your questions, you know, you wanted to know my level of law-wise, you know, legal terms, legal terms relating to the local. I know all the Islamic laws and according to your questions, basically wants to verify my ability. And if the American system would not allow me to defend myself, then I'll be forced to attend and I'll be a listener. Only.

PO: While I'm thinking, let me make a note that's an aside. I have motioned at counsel and Mr. al Bahlul and myself with what I prefer to think of as a slow-down motion solely because we all talk too fast for the translators sometimes.

You stated that up until this time, while Commander Sundel and Major Bridges were detailed as your counsel, they were not representing you.

ACC: They don't represent me.

PO: There's a term in the law called amicus curiae. What it means is a friend of the court. Would you permit Commander Sundel and Major Bridges to file, or to give to the commission on your behalf a motion requesting that you be allowed to represent

yourself, which is what you've told me you want to do? Because until someone tells the commission that this order does not apply, the commission is not able to let you represent yourself. And I further tell you that, based on my experience, the best way to get an answer to your question would be to have a motion filed.

Will you permit them to file a motion on your behalf, not stating that they are representing you?

ACC: If I represent that motion through me, through the legal term, that means I did have them represent me.

PO: No, I have just said that they would file a motion as an amicus, meaning just as a friend of the commission.

ACC: Friends of the commission?

PO: As a --

ACC: As a mediator between the two of us?

PO: I would imagine that sitting there, Commander Sundel and Major Bridges have the desire to get you what you want, if they can. No one on this commission is going to write a brief -- a brief is just the law that's attached to a motion -- which puts forth your side. By allowing them to file an amicus brief, you have said and I've heard, we've all heard, it's on the record that they're not representing you. And you -- by allowing them to file an amicus brief, you're not changing that. You're just getting the benefit -- how long in the service, Major Bridges? JAG Corps?

ADC (Maj Bridges): Twelve-and-a-half years, sir.

DC (LCDR Sundel): About 14 years, sir.

PO: -- of 26-and-a-half years of legal training who are trying to get you what you want on this one issue.

ACC: I would only stick to the verbal offer.

PO: Well, you get your recess, Commander XXXX. Court's in recess.

The Commission Hearing recessed at 1028, 26 August 2004.

The Commission Hearing reconvened at 1110, 26 August 2004.

PO: The commission will come to order. Let the record reflect that all parties present when the commissions recessed are once again present.

In looking at my notes, I note that I failed to mention on the record the defense counsel detailing letter which is already what, Commander XXXX?

P (CDR XXXX): Six, sir.

PO: Thank you. Mr. al Bahlul, in the course of our discussions, I believe I determined what it is you want. I'm going to ask you again so that I can make sure that I know. The first thing you want, your desires are that you be permitted to represent yourself before this commission; is that correct?

ACC: Yes.

PO: If that is not permitted, your second choice is to be represented by a Yemeni attorney; is that correct?

ACC: As far as the Yemeni attorney is concerned, if I get the guarantees that he'll not be harmed neither by the Yemeni, nor by the American authority because of the sensitivity of the matter, and the sensitivity of the matter as far as the al Qaida case and the United States of America, if I get guarantees from the Yemeni government and the Americans that they will not be harmed, as far as the sensitivity of the matters, then I can appoint if law permits me to do so.

PO: I'll rephrase my understanding. If you are not allowed to represent yourself, you wish to have a Yemeni lawyer represent you subject to the guarantees you just stated; is that correct?

ACC: This is okay because I don't want anybody to be harmed because of me.

PO: What you have posed, as I believe I stated before, are structural challenges to the commission proceedings. The commission, as it sits here, does not have the authority to make those structural changes.

However, the commission will cause -- will make a transcript of everything that's been said and forward it to the people who can make or authorize structural changes. You have told me that you do not wish Commander Sundel and Major Bridges to do anything on your behalf.

ACC: Yes, either them or anybody else.

PO: Commander Sundel, speaking for yourself and Major Bridges, recognizing that Mr. al Bahlul says that you do not represent him, I hereby direct you to provide, for forwarding to the appointing authority, a motion. And this motion will address two structural changes and your support -- your legal support -- a motion. The structural changes will be concerning the right of an accused to represent himself, and the right of an accused to get a foreign attorney to represent him.

Y'all have been on the case for a long time. By the -- I'm sorry, I also did not say, you will not in this motion state that you are representing the views or desires of Mr. al Bahlul. Any question about that?

DC (LCDR Sundel): No, sir.

PO: Don't sit down yet. When can you have a

well-reasoned and well-researched brief on those matters prepared to send forward?

DC (LCDR Sundel): I think we could have that ready a week from tomorrow, sir. That would be the 3rd of September, sir.

PO: Okay. Provide it to prosecution; prosecution, you provide your response to Commander Sundel and Major Bridges in their capacity as detailed counsel who are not representing Mr. al Bahlul by the 17th of September.

You provide, Commander Sundel, by the 30th of September your final reply and all the matters therewith to the appointing authority, Mr. Altenburg.

I will provide both counsel -- I will provide the prosecution and Commander Sundel and Major Bridges no later than Saturday, a transcript of these proceedings so that you both -- so that the prosecution and the detailed defense counsel may see what Mr. al Bahlul stated verbally on the record. This transcript will be authenticated in due course.

All authenticated means, Mr. al Bahlul, is that I will review it and sign it and say that's what happened and I will forward it and a certified interlocutory question to Mr. Altenburg for his action. And all that should arrive for him to start work on by the 30th of September.

Commander XXXX, is there anything else that I can do at this time, in your opinion, to frame the issue or to get this matter resolved?

P (CDR XXXX): No, sir. We believe what you laid out is the approved course of action.

PO: Mr. al Bahlul, you've heard what I've said. The appointing authority will be the one to start the decision making on this process. If you wish to

submit any matters to Mr. Altenburg other than what you've stated on the record here today, those matters will have to be forwarded so as to reach him by the 30th of September.

ACC: And it is about what?

PO: About the whole thing we've been talking. Earlier, you stated that you did not want to put anything in writing; you wanted it to be all words. I have told you --

ACC: A verbal request. Like he said earlier, verbal request.

PO: What you stated verbally, has been taken down by Sergeant XXXX, and it will become written. I am telling you, though, that if you change your mind -- I'm not telling you to change your mind -- I'm saying if you change your mind and you want to submit anything to Mr. Altenburg those matters have got to reach him by the 30th of September.

Anything else, Commander XXXX?

P (CDR XXXX): No, sir.

PO: Members?

I am not going to set a date for the next hearing in this case. Once Mr. Altenburg or others in the chain make a decision, I'll do something then; okay?

All rise. Court's in recess.

The Commissions Hearing recessed at 1125, 26 August 2004.

AUTHENTICATION OF COMMISSIONS PROCEEDINGS

in the case of

United States v. ALI HAMZA AHMAD SULAYMAN AL BAHLUL

a/k/a Ali Hamza Ahmed Suleiman al Bahlul
a/k/a Abu Anas al Makki
a/k/a Abu Anas al Yemeni
a/k/a Mohammad Anas Abdullah Khalidi

This is to certify that Pages _____ through _____ are an accurate and verbatim transcript of the foregoing proceedings.

Peter E. Brownback III
Colonel, U.S. Army
Presiding Officer

Date

UNITED STATES

v.

ALI HAMZA AHMAD SULAYMAN AL BAHLUL
a/k/a Ali Hamza Ahmed Suleiman al Bahlul
a/k/a Abu Anas al Makki
a/k/a Abu Anas Yemeni
a/k/a Mohammad Anas Abdullah Khalidi

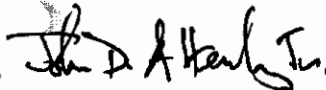
**Military Commission
Members**

June 28, 2004

The following officers are appointed to serve as a Military Commission for the purpose of trying any and all charges referred for trial in the above-styled case. The Military Commission will meet at such times and places as directed by the Appointing Authority or the Presiding Officer. Each member of the Military Commission will serve until relieved by proper authority.

In the event of incapacity, resignation, or removal of a member who has not been designated as the Presiding Officer, the alternate member is automatically appointed as a member.

Colonel Peter E. Brownback, III, USA (Retired), Presiding Officer
Colonel [REDACTED], USMC, Member
Colonel [REDACTED], USMC, Member
Colonel [REDACTED], USAF, Member
Lieutenant [REDACTED], USAF, Member
Lieutenant [REDACTED], USA, Alternate Member



John D. Altenburg, Jr.
Appointing Authority
for Military Commissions

Review Exhibit 1

Page 1 Of 2

No. 040003

UNITED STATES

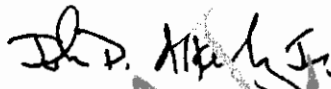
v.

ALI HAMZA AHMAD SULAYMAN AL BAHLUL
a/k/a Ali Hamza Ahmed Suleiman al Bahlul
a/k/a Abu Anas al Makki
a/k/a Abu Anas Yemeni
a/k/a Mohammad Anas Abdullah Khalidi

Approval of Charge
And Referral

June 28, 2004

The charge against Ali Hamza Ahmad Sulayman al Bahlul (a/k/a Ali Hamza Ahmed Suleiman al Bahlul, a/k/a Abu Anas al Makki, a/k/a Abu Anas Yemeni, a/k/a Mohammad Anas Abdullah Khalidi) is approved and referred to the Military Commission identified at Encl 1. The Presiding Officer will notify me not later than July 15, 2004, of the initial trial schedule, including dates for submission and argument of motions, and a convening date.



John D. Altenburg, Jr.
Appointing Authority
for Military Commissions

~~SECRET~~THE WHITE HOUSE
WASHINGTONOFFICE OF THE
SECRETARY OF DEFENSE

2003 JUL 14 PM 5:12

TO THE SECRETARY OF DEFENSE:

Based on the information available to me from all sources, including the factual summary from the Department of Defense Criminal Investigation Task Force dated June 24, 2003 and forwarded to me by the Deputy Secretary of Defense by letter dated July 1, 2003;

Pursuant to the Military Order of November 13, 2001 on "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism";

In accordance with the Constitution and consistent with the laws of the United States, including the Authorization for Use of Military Force Joint Resolution (Public Law 107-40);

I, GEORGE W. BUSH, as President of the United States and Commander in Chief of the Armed Forces of the United States, hereby DETERMINE for the United States of America that in relation to Ali Hamza Ahmad Sulayman al-Bahlul, Department of Defense Internment Serial No. US9YM-00039DP, who is not a United States citizen:

(1) There is reason to believe that he, at the relevant times:

- (a) is or was a member of the organization known as al Qaida;
- (b) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
- (c) has knowingly harbored one or more individuals described in subparagraphs (a) or (b) above.

(2) It is in the interest of the United States that he be subject to the Military Order of November 13, 2001.

Accordingly, it is hereby ordered that, effective this day, Ali Hamza Ahmad Sulayman al-Bahlul shall be subject to the Military Order of November 13, 2001.

DATE: July 3 2003

White House Office-controlled Document

DECLASSIFIED IAW
JTF-GTMO-J2 SCB, 10JUN2004
DECLASSIFIED ON: 23AUG2004Review Exhibit 2Page 1 Of 1

X02375 /03

Interpreters



UNOFFICIAL COPY

Review Exhibit 3

Page 1 Of 1

**REVIEW EXHIBIT 4: PROTECTIVE ORDER
FOR INTERPRETERS' NAMES**

UNOFFICIAL COPY



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF PROSECUTOR
1610 DEFENSE PENTAGON
WASHINGTON, DC 20301-1610

July 28, 2004

MEMORANDUM FOR COMMANDER [REDACTED] USN
LIEUTENANT COLONEL [REDACTED] USMC
LIEUTENANT COLONEL [REDACTED] USMC
MAJOR [REDACTED] USA
CAPTAIN [REDACTED] USA
LIEUTENANT [REDACTED] USNR
CAPTAIN [REDACTED] USAFR

SUBJECT: Detailed Prosecutors

Consistent with my authority as Chief Prosecutor and the provisions of Sections 4B(2) of Military Commission Order No. 1, dated March 21, 2002, and Section 3B(9) of Military Commission Instruction No. 3, dated April 30, 2003, the above named counsel are detailed and designated as follows:

United States v. al Bahlul

Detailed Prosecutor: Commander [REDACTED]

Detailed Assistant Prosecutors: Lieutenant Colonel [REDACTED], Captain [REDACTED]

United States v. al Qosi

Detailed Prosecutor: Lieutenant Colonel [REDACTED]

Detailed Assistant Prosecutors: Lieutenant [REDACTED], Captain [REDACTED]

United States v. Hamdan


Detailed Prosecutor: Commander [REDACTED]

Detailed Assistant Prosecutors: Captain [REDACTED]

United States v. Hicks

Detailed Prosecutor: Lieutenant Colonel [REDACTED]

Detailed Assistant Prosecutors: Major [REDACTED]


ROBERT SWANN
Colonel, U.S. Army
Chief Prosecutor
Office of Military Commissions

cc:

Deputy Chief Prosecutor
[REDACTED]

Review Exhibit 5

Page 1 Of 1



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



3 February 2004

MEMORANDUM DETAILING DEFENSE COUNSEL

TO: LCDR PHILIP SUNDEL AND MAJOR MARK BRIDGES

SUBJECT: DETAILING LETTER REGARDING MILITARY COMMISSION
PROCEEDINGS OF ALI HAMZA AHMAD SULAYMAN AL BAHUL

Pursuant to the authority granted to me by my appointment as Chief Defense Counsel; Sections 4C and 5D of Military Order No. 1, dated March 21, 2002; and Section 3B8 of Military Commission Instruction No. 4, dated April 30, 2003, you are hereby detailed as Military Counsel for all matters relating to Military Commission proceedings involving Ali Hamza Ahmad Sulayman al Bahlul. Your appointment exists until such time any findings and sentence become final as defined in Section 6(H)(2) of Military Commission Order No. 1 unless you are excused from representing Mr. al Bahlul by me or my successor

In your representation of Mr. al Bahlul, you are directed to review and comply with the Presidential Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," (66 FR 57833); Military Commission Orders No. 1 and 2 and Military Commission Instructions 1 through 9 and all Supplementary Regulations and Instructions issued in accordance therewith. Specifically, you are directed to ensure that your conduct and activities are consistent with the prescriptions and proscriptions specified in Section II of the Affidavit And Agreement By Civilian Defense Counsel at Appendix B to Military Instruction No. 5.

You are directed to inform Mr. al Bahlul of his rights before a Military Commission. In the event that Mr. al Bahlul chooses to exercise his rights to Selected Military Counsel or his right to Civilian Defense Counsel at his own expense, you shall inform me as soon as possible.

In the event that you become aware of a conflict of interest arising from the representation of Mr. al Bahlul before a Military Commission, you shall immediately inform me of the nature and facts concerning such conflict. You should be aware that in addition to your State Bar and Service Rules of Professional Conduct that by virtue of your appointment to the Office of Military Commissions you will be attached to the Defense Legal Services Agency and will be subject to

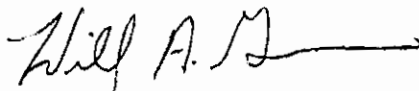


Review Exhibit 6

Page 1 Of 2

professional supervision by the Department of Defense General Counsel.

You are directed to inform me of all requirements for personnel, office space, equipment, and supplies necessary for preparation of the defense of Mr. al Bahlul.



Colonel Will A. Gunn, USAF
Chief Defense Counsel
Office of Military Commissions

cc:
Col Borch
General Hemingway
Mr. Koffsky